



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

08/613070			
APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/613,070	03/08/96	TOTH	D ATOMIC-2

LEONARD TACHNER  
SUITE 295  
3990 WESTERLY PLACE  
NEWPORT BEACH CA 92660

33M1/0429

EXAMINER  
ASHER, K

ART UNIT PAPER NUMBER  
3312 3

DATE MAILED: 04/29/97

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

**OFFICE ACTION SUMMARY**

☒ Responsive to communication(s) filed on 3/8/96

☐ This action is **FINAL**.

☒ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 2 months month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☒ Claim(s) 1-10 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

☒ Notice of Reference Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

5

*This application is in condition for allowance except for the following formal matters: .*

- 1) Applicant's description of figure 2 found on page 12, lines 28+, is not consistent with the actual illustration. Figure 2 does not show the diaphragm/pivot lever urging the sharp edge 19 away from seat 46. Instead the opposite is shown. The Brief Description of the Drawings states that figure 2 illustrates the pressurized configuration. This is consistent with what is illustrated. Put another way, applicant has not provided an illustration of an inhalation, i.e. open position of the valve - see specification, page 8, lines 6-17. Correction, without the addition of new matter, is required.
- 2) Figure 4 is not described at all in the Detailed Description.
- 3) The subject matter of claim 6 is not illustrated, specifically, the orifice external perimeter must be illustrated.
- 4) Claims 1-9 use inconsistent claim terminology. Specifically, claim 1 recites "an elastic seal" and claim 7 recites "said elastomeric seal". Consistency is required as well as review of all claims for consistent terminology.

20

*Prosecution on the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.*

25

*A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE TWO (2) MONTHS FROM THE DATE OF THIS LETTER.*

Serial No. 08/613,070  
Art Unit 3312

A COMPLETE RESPONSE TO THIS OFFICE ACTION MUST INCLUDE DRAFT RED INK DRAWING CORRECTIONS FOR EACH DRAWING INFORMALITY NOTED ABOVE.

5

*Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner K. L. Asher at telephone number (703) 308-0858.*

10

*Any inquiry of a general nature should be directed to the Group receptionist at (703) 308-0858.*

*Status inquiries are to be handled according to MPEP section 203, and directed to the Group receptionist, not the Examiner.*

15

*Inquiries as to Terminal Disclaimer and PCT requirements should be directed to the Group Paralegal, Mr. Andre Robinson, at (703) 308-2104.*

20

*The facsimile phone number for Art Unit 3312 is (703) 308 - 3139. **PLEASE CALL THE EXAMINER PRIOR TO SENDING ANY FAX.** This will ensure that the Examiner receives the fax promptly.*

April 25, 1997



KIMBERLY L. ASHER  
PRIMARY EXAMINER  
GROUP 3300